

Response Under 37 CFR §1.116

Expedited Procedure

Examining Group 3652

Application No. 09/975,329

Paper Dated: November 15, 2004

In Reply to USPTO Correspondence of July 15, 2004

Attorney Docket No. 702-011760

REMARKS

Claims 19, 20, 23, 25-28, 30, 33 and 34 remain in this application. Claim 37 has been added. Claims 19, 20, 33 and 34 have been amended, while the remaining claims are unchanged. No new subject matter is believed to have been added by this Amendment. Entry of this Amendment, in response to the Final Office Action, is requested because Applicants believe that such an Amendment puts the claims in condition for allowance.

On page 2 of the Office Action, the Examiner rejects claims 19, 20, 22, 25-28, 30, 33 and 34 under 35 U.S.C. § 103(a) as being obvious from the teaching of United States Patent No. 5,533,594 to Tremblay et al. (the Tremblay patent), in view of the teaching of United States Patent No. 6,000,758 to Schaffner et al. (the Schaffner patent).

Claim 19 has been amended to further specify that the back rest is connected to the guide mechanism such that the back rest may be displaced up or down without rotation being imparted to the back rest. This feature is illustrated in Figures 5 and 6 of the drawings. In Figure 5 the seat part 3 is in a fully rotated position and the back rest 4 is in a vertical position. In Figure 6 the seat part 3 is in a reclining position while the back rest 4 is still in a vertical position such that, during its travel, the back rest 4 does not rotate.

Additionally, the arm rest 7 moves up and down with the back rest 4 without rotation. Claims 19 and 33 have been amended to include this feature, while claims 20 and 34 have been amended for clarification.

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Directing attention to the prior art of record, the Tremblay patent is directed to a chair lift with a positioning carriage and swivel mechanism having a safety interlock. The Tremblay patent does not disclose a chair having a seat part that could be pivoted up and down. However, the Examiner indicates that details of the chair lift disclosed in the Schaffner patent, in combination with the chair lift disclosed in the Tremblay patent, appear to disclose a pivoting lift chair. The Applicants respectfully disagree.

First of all, neither of these patents teach or suggest a device wherein the hinges of a rod construction form a parallelogram as found in amended claim 19. In the July 15, 2004 Office Action, the Examiner stated that the Schaffner patent clearly shows in Figures 9-12 and 14 the guide mechanism comprises a rod construction 18, 20 coupled by hinges to form a parallelogram as further illustrated in Figures 9-12 and 14. However, a parallelogram by definition is a figure with four sides, wherein the opposite sides are parallel and equal. One of the characteristics of a parallelogram is that the opposing sides are always parallel to one another regardless of the position of the parallelogram. It is this feature which permits the back rest 4 and the arm rest 7 of the Applicants' invention to move up and down without rotation to maintain their upright position. Directing attention to Figures 9-12 and 14 of the Schaffner patent, the four linkages 16, 18, 20, 24 do not form a parallelogram. The result of this configuration is that the chair back portion 40 is forced to rotate as the chair lift mechanism 11 operates. As illustrated in Figure 9, the chair mechanism 11 is in a retracted position and the back portion 40 is in an upright orientation, as opposed to Figure 10, wherein the mechanism 11 is in the extended position and the chair back portion 40 is rotated forward. This is exaggerated even further in

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Figure 12 in an embodiment showing the chair back portion 40 in a reclined position rotated to a greater degree.

Therefore, the Applicants believe that claim 19 is patentably distinct over the prior art of reference because neither of these references teach or suggest an arrangement, whereby the back rest and/or the arm rest may move up and down without rotation but, furthermore, neither of these references teach or suggest the use of a parallelogram linkage to achieve this goal. By way of their dependence upon what is believed to be patentably distinct independent claim 19, the remaining pending claims are themselves believed to be patentably distinct over the prior art of record. Additionally, claim 33 has been further amended to specify that the arm rest moves up and down without rotation in a fashion similar to that of the back rest. For that reason, claim 33 is believed to be further distinguished over the prior art of record.

New claim 37 has been added and is a combination of claim 19, prior to the present amendment, and a modified version of dependent claim 25. In particular, the limitation of the rods being flat and plate-like has not been included in claim 37. New claim 37, just as claim 19 prior the present amendment, includes the limitation specifying the guide mechanism is made of a rod construction in the form of a parallelogram. The significance of this has already been discussed and the Applicants believe that claim 37 is patentably distinct over the prior art of record.

Reconsideration and allowance of claims 19-20, 22, 23, 25-28, 30, 33, 34 and 37 are respectfully requested.

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In the Amendment April 5, 2004, the Applicants indicated that in the event claim 19 was allowed, then withdrawn claims 23, 29, 31, 32, 35 and 36 should be returned to the application and allowed as depending upon allowable base claim 19. Therefore, upon allowance of claim 19, the Applicants would like these claims reinstated and allowed.

Respectfully submitted,

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